

§ 417.14

with the Assistant Secretary, and forward a copy to each party participating in the hearing. His decision shall become a part of the record and shall include a statement of his findings and conclusions, as well as the reasons or basis therefor, upon all material issues.

§ 417.14 Form and time for filing of appeal with the Assistant Secretary.

(a) An interested person may appeal from the Administrative Law Judge's initial decision by filing written exceptions with the Assistant Secretary within 15 days of the issuance of the Administrative Law Judge's initial decision (or such additional time as the Assistant Secretary may allow), together with supporting reasons for such exceptions. Blanket appeals shall not be received. Impertinent or scandalous matter may be stricken by the Assistant Secretary, or an appeal containing such matter or lacking in specification of exceptions may be dismissed.

(b) In the absence of either an appeal to the Assistant Secretary or review of the Administrative Law Judge's initial decision by the Assistant Secretary on his own motion, such initial decision shall become the decision of the Assistant Secretary.

§ 417.15 Decision of the Assistant Secretary.

Upon appeal filed with the Assistant Secretary pursuant to § 417.14, or within his discretion upon his own motion, the complete record of the proceedings shall be certified to him; he shall notify all interested persons who participated in the proceedings; and he shall review the record, the exceptions filed and supporting reasons, and shall issue a decision as to the adequacy of the constitution and bylaws for the purpose of removing officers, or shall order such further proceedings as he deems appropriate. His decision shall become a part of the record and shall include a statement of his findings and conclusions, as well as the reasons or basis therefor, upon all material issues.

[29 FR 8264, July 1, 1964, as amended at 29 FR 8480, July 7, 1964]

29 CFR Ch. IV (7-1-10 Edition)

Subpart B—Procedures Upon Failure of Union To Take Appropriate Remedial Action Following Subpart A Procedures

§ 417.16 Initiation of proceedings.

(a) Any member of a local labor organization may file a complaint with the Office of Labor-Management Standards alleging that following a finding by the Assistant Secretary pursuant to subpart A that the constitution and bylaws of the labor organization pertaining to the removal of officers are inadequate, or a stipulation of compliance with the provisions of section 401(h) of the Act reached with the Chief, DOE in connection with a prior charge of the inadequacy of a union's constitution and bylaws to remove officers, as provided in subpart A of this part, the labor organization (1) has failed to act within a reasonable time, or (2) has violated the procedures agreed to with the Chief, DOE, or (3) has violated the principles governing adequate removal procedures under § 417.2(b).

(b) The complaint must be filed pursuant to section 402(a) of the Act within one calendar month after one of the two following conditions has been met:

(1) The member has exhausted the remedies available to him under the constitution and bylaws of the organization, or

(2) The member has invoked such remedies without obtaining a final decision within three calendar months after invoking them.

[59 FR 65716, Dec. 21, 1994, as amended at 62 FR 6093, Feb. 10, 1997]

§ 417.17 Investigation of complaint and court action.

The Office of Labor-Management Standards shall investigate such complaint, and if upon such investigation the Secretary finds probable cause to believe that a violation of section 401(h) of the Act has occurred and has not been remedied, the Secretary shall within 60 days after the filing of such complaint, bring a civil action against the labor organization in the district court of the United States for the district in which such labor organization maintains its principal office, to direct